

REMARKS

Claims 1-5, 7-15, 17 and 18 are pending in the above application.

The Office Action dated February 28, 2007, has been received and carefully reviewed. Each issue raised in that Office Action is addressed below, and reconsideration and allowance of the pending claims is respectfully requested in view of the following remarks.

REQUEST FOR REVIEW BY SUPERVISORY PATENT EXAMINER

The present Office Action is the fourth Office Action to issue in the above application. Section 707.02 of the MPEP provides:

The supervisory patent examiners should impress their assistants with the fact that the shortest path to the final disposition of an application is by finding the best references on the first search and carefully applying them.

The supervisory patent examiners are expected to personally check on the pendency of every application which is up for the third or subsequent Office action with a view to finally concluding its prosecution.

It is respectfully requested that the examiner's supervisor check on the pendency of this application as required by the MPEP so that claims can be allowed or a clear issue can be developed for appeal.

REJECTIONS BASED ON KOHINATA AND POWELL

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohinata in view of Powell. Kohinata shows a mobile terminal with an authentication function. As acknowledged in the Office Action, Kohinata fails to show a mobile terminal having an information section that transmits an authentication result to a communication base station if personal authentication is failed as the result of the check of the authenticity of the identity information by a personal authentication section. Powell is cited to show this feature. It is respectfully submitted that a proper motivation for modifying Kohinata based on Powell has not been provided. Furthermore, even if a proper motivation were provided, the combination of Kohinata and Powell in no manner suggests the invention of claim 1. Each of these issues is addressed below.

Kohinata discloses a cell phone that does not operate unless the identify of an owner is established. Authentication takes place in the cell phone, and the cell phone does not communicate with a base station if authentication fails. Powell, on the other hand, discloses a method of controlling a cellular network so that the network refuses connections to cell phones that are not authorized. Powell's automated authentication processor 60 and roaming restrictor 50 are part of the cellular network and not part of a mobile terminal. The processor 60 sends challenges to a cell phone attempting to use the network, and the roaming restrictor blocks network access if the cell phone user does not respond to the challenges properly. Thus, Kohinata controls access using a cell phone while Powell discusses a method of controlling a cellular network to prevent certain cell phones from accessing a network. Any modification to Kohinata based on Powell would therefore change the principle of operation of Kohinata by moving security features from a cell phone to a cellular network. As provided in MPEP 2143.01, a proposed modification to a reference cannot change the principle of operation of the reference. For at least this reason, a prima facie case of obviousness has not been provided in connection with claim 1, and claim 1 is submitted to be allowable over the art of record.

Furthermore, even if the references could be combined, the combination would still lack at least an informing section as claimed. Claim 1 recites a mobile terminal comprising, inter alia, an informing section. Powell's cellular telephone does not have an informing section as claimed and does not perform any authentication itself. Instead, it is the network infrastructure that issues challenges to the cell phone. The cell phone only provides responses to the challenges - when a user enters his social security number for example. Powell's cell phone does not authenticate a user and then use an informing section to send an authentication result to a base station. The statement in the Office Action that Powell's teaching of "counting a number of authentication failures" teaches an informing section is submitted to be inaccurate. Authentication failures are not transmitted by Powell's phone. For this reason as well, it is respectfully submitted that the art of record does not show or suggest the invention recited in claim 1 and that claim 1 is allowable.

Claims 2 and 3 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohinata in view of Powell. As argued above in connection with claim 1, it is submitted that a proper motivation for modifying Kohinata based on Powell has not been presented. In addition, as argued in connection with claim 1, even if combined, Kohinata and Powell do not show an informing section as claimed. Claim 4 further distinguishes over these references by reciting an authentication result storing section for storing an authentication failure result and wherein an authentication failure control section controls the informing section to transmit the authentication failure result stored in the authentication result storing section to the communication base station when the current user attempts to use the mobile terminal communication function. Powell does not store authentication failure results in a cell phone. Instead, the cellular network computers track responses to challenges. Powell therefore also does not teach an authentication failure control section as claimed at least because Powell does not show a mobile terminal that saves authentication failure results and then transmits these failure results when a user attempts to use a communication function of a mobile phone. For at least these reasons, claim 4 is submitted to be allowable over the art of record.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohinata in view of Powell. As argued above in connection with claim 1, a proper motivation for combining Kohinata and Powell has not been provided, and even if combined the references would not show or suggest at least an informing section as claimed. As argued in connection with claim 4, the combination of references also does not show or suggest an authentication result storing section as claimed. Claim 5 is submitted to be allowable for at least the reasons provided above in connection with claims 1 and 4.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohinata in view of Powell. As argued above in connection with claim 1, a proper motivation for combining Kohinata and Powell has not been provided, and claim 11 is submitted to be allowable for at least this reason. In addition, claim 11 recites a step of transmitting an authentication result to the communication base station if the inputted identity information differs from the stored personal authentication information. Kohinata does not transmit an authentication result; Powell transmits responses to challenges but does not transmit an authentication result. Therefore, even

if the references could be combined, the result would not be the method defined by claim 11. Claim 11 is submitted to be allowable over the art of record for at least these reasons.

Claims 12, 13, 17 and 18 depend from claim 11 and are submitted to be allowable for at least the same reasons as claim 11.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohinata in view of Powell. As argued above in connection with claim 11, a proper motivation for modifying Kohinata in view of Powell has not been provided, and claim 14 is submitted to be allowable for at least this reason. Claim 14 is also submitted to distinguish over the art of record by reciting a step of transmitting an authentication result to a communication base station as discussed above in connection with claim 11. Claim 14 is submitted to be allowable over the art of record for at least these reasons.

Claim 15 depends from claim 14 and is submitted to be allowable for at least the same reasons as claim 14.

REJECTIONS BASED ON KOHINATA, POWELL AND DAUDELIN

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohinata in view of Powell and further in view of Daudelin. Daudelin was applied against claim 7 in the first and second Office Actions. In response to arguments submitted on August 8, 2006, the examiner indicated that claim 7 was allowable over the art of record. However, the portion of Applicant's arguments that convinced the examiner to withdraw the rejection of claim 7 was not identified as required by MPEP 707.07(f). That section of the MPEP provides:

If applicant's arguments are persuasive and upon reconsideration of the rejection, the examiner determines that the previous rejection should be withdrawn, the examiner must provide in the next Office communication the reasons why the previous rejection is withdrawn by referring specifically to the page(s) and line(s) of applicant's remarks which form the basis for withdrawing the rejection. It is not acceptable for the examiner to merely indicate that all of applicant's remarks form the basis for withdrawing the previous rejection (emphasis added).

Now, Daudelin is once again being used to support a rejection of claim 7, but the examiner has not responded to the arguments distinguishing over Daudelin in the August 8, 2006, response as also required by MPEP 707.07(f). Applicant maintains that Daudelin in no

manner shows or suggests at least the claim 7 limitation of “an owner-addressed authentication result informing section which, upon reception of a personal authentication failure result from the mobile terminal, transmits the personal authentication failure result to the owner with reference to the owner information stored in the owner information storing section.” It is respectfully requested that, if this rejection is not withdrawn, the examiner provide 1) the reasons that the previous rejections based on Daudelin were withdrawn and 2) a response to Applicant’s previous arguments distinguishing claim 7 over references including Daudelin, when Daudelin in no manner shows or suggests at least the above limitation. Since the rejections are also based on a combination of Kohinata and Powell, claim 7 is also submitted to be allowable because a proper motivation for combining these references has not been provided as discussed above in connection with claim 1.

Claim 8 depends from claim 7 and is submitted to be allowable for at least the same reasons as claim 7.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohinata and Powell and further in view of Daudelin. Claims 17 and 18 depend from claim 11. Daudelin does not address the shortcomings of Kohinata and Powell discussed above in connection with claim 11. Daudelin does not show or suggest transmitting a personal authentication failure result to an owner as recited in claim 17 or transmitting a personal authentication failure result to a predetermined organization as recited in claim 18. Claim 17 was also indicated to be allowable over Daudelin in the third Office Action, and no reason for this indication of allowability or response to Applicant’s arguments has been provided. For at least these reasons, claims 17 and 18 are submitted to patentably distinguish over the art of record.

CONCLUSION

Each issue raised in the Office Action dated February 28, 2007, has been addressed, and it is believed that claims 1-5, 7-15, 17 and 18 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present

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application, the examiner is respectfully requested to contact Scott Wakeman (Reg. No. 37,750) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

Dated: April 16, 2007

Respectfully submitted,

By  # 37,750

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